

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 9/12/2013

Action Requested By:
Legal

Agenda Item Type
Resolution

Subject Matter:

Invoking letter of credit.

Exact Wording for the Agenda:

Resolution authorizing the Clerk-Treasurer to Invoke Regions Bank Letter of Credit No. L054094 for Walton's Mountain III Subdivision.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost:

Budgeted Item: Not applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: 

Date: 8.27.13

RESOLUTION NO. 13-_____

WHEREAS, Regions Bank issued a certain letter of credit (No. L054094), a copy of which is attached hereto and incorporated herein by reference, including any amendments thereto, in favor of the City of Huntsville, Alabama pursuant to Article 5 of the Subdivision Regulations for the City of Huntsville, Alabama; and

WHEREAS, the letter of credit is due to be invoked and the proceeds used in accordance with said subdivision regulations.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the City of Huntsville Clerk-Treasurer be and is hereby authorized to present for payment to Regions Bank Letter of Credit No. L054094, prior to the expiration date thereof, with the language as specified in said Letter of Credit.

ADOPTED this the 12th day of September, 2013.

President of the City Council
of the City of Huntsville,
Alabama

APPROVED this the 12th day of September, 2013.

Mayor of the City of
Huntsville, Alabama

REGIONS

Walton's Mtn III
Sidewalk

1900 5TH AVENUE NORTH, 22ND FLR, BIRMINGHAM, ALABAMA 35203
S.W.I.F.T. UPNBUS44MIA TELEX 6737871 UPBMIA
PHONE (866)828-6928 FAX (205)264-6027

S/W
NOT
ERT

DATE: AUGUST 22, 2012

L/C NUMBER: L054094
AMENDMENT NUMBER: 08

BENEFICIARY:
CITY OF HUNTSVILLE,
ALABAMA
308 FOUNTAIN CIRCLE
HUNTSVILLE, AL 35801

OPENER:
WM DEVELOPMENT LLC
C/O FLEMING PROPERTIES, LTD
4245 BALMORAL DRIVE, SUITE 201
HUNTSVILLE, AL 35802

WE HAVE AMENDED THE CAPTIONED LETTER OF CREDIT AT THE REQUEST OF THE
OPENER.

AMENDED TERMS AND CONDITIONS:

EXPIRATION DATE AMENDED TO: SEPTEMBER 18, 2013.

AMENDED OPENER ADDRESS FROM:
WM DEVELOPMENT LLC
C/O FLEMING PROPERTIES, LTD
4851 WHITESBURG DRIVE SUITE G
HUNTSVILLE, AL 35801

AMENDED OPENER ADDRESS TO:
WM DEVELOPMENT LLC
C/O FLEMING PROPERTIES, LTD
4245 BALMORAL DRIVE, SUITE 201
HUNTSVILLE, AL 35802

THIS AMENDMENT MUST BE ATTACHED TO AND BECOME AN INTEGRAL PART OF THE
ORIGINAL CREDIT. ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

SINCERELY,


(AUTHORIZED SIGNATURE)

OK
C.A.

8/28/12 Page 1 of 1

MW 8-28-12

DS 8/24/12 OA KCA 8/28/12

REGIONS®

Nelson's Memo III
Sidewalk

1900 5TH AVENUE NORTH, 22ND FLR, BIRMINGHAM, ALABAMA 35203
S.W.I.F.T. UPNBUS44MIA TELEX 6737871 UPBMIA
PHONE (866)828-6928 FAX (205)264-6027

DATE: AUGUST 02, 2011

L/C NUMBER: L054094
AMENDMENT NUMBER: 07

S/W
9/1

BENEFICIARY:
CITY OF HUNTSVILLE,
ALABAMA
308 FOUNTAIN CIRCLE
HUNTSVILLE, AL 35801

OPENER:
WM DEVELOPMENT LLC
C/O FLEMING PROPERTIES, LTD
4851 WHITESBURG DRIVE SUITE G
HUNTSVILLE, AL 35801

WE HAVE AMENDED THE CAPTIONED LETTER OF CREDIT AT THE REQUEST OF THE
OPENER.

AMENDED TERMS AND CONDITIONS:

EXPIRATION DATE AMENDED TO: SEPTEMBER 18, 2012.

OPENER'S ADDRESS AMENDED TO READ:
4851 WHITESBURG DRIVE, SUITE G
HUNTSVILLE, AL 35801

THIS AMENDMENT MUST BE ATTACHED TO AND BECOME AN INTEGRAL PART OF THE
ORIGINAL CREDIT. ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

SINCERELY,


(AUTHORIZED SIGNATURE)

OK
CEIX
8/9/11

DS 8/5/11

Page 1 of 1

M/8-5-11

OK KCA 8/8/11

REGIONS®

Walt's Min. III
Schwartz

1900 5TH AVENUE NORTH, 22ND FLR, BIRMINGHAM, ALABAMA 35203
S.W.I.F.T. UPNBUS44MIA TELEX 6737871 UPBMIA
PHONE (866)828-6928 FAX (205)264-6027

DATE: JULY 21, 2009

L/C NUMBER: L054094
AMENDMENT NUMBER: 05

BENEFICIARY:
CITY OF HUNTSVILLE,
ALABAMA
308 FOUNTAIN CIRCLE
HUNTSVILLE, AL 35801

OPENER:
WM DEVELOPMENT LLC
C/O FLEMING PROPERTIES, LTD
4650 WHITESBURG DRIVE, SUITE 205
HUNTSVILLE, AL 35802

WE HAVE AMENDED THE CAPTIONED LETTER OF CREDIT AT THE REQUEST OF THE
OPENER.

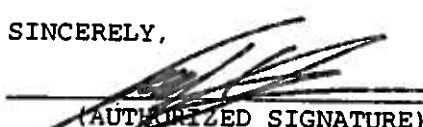
AMENDED TERMS AND CONDITIONS:

EXPIRATION DATE AMENDED TO: SEPTEMBER 18, 2010.
AMENDED BENEFICIARY FROM:
CITY OF HUNTSVILLE,
ALABAMA
P.O. BOX 308
HUNTSVILLE, AL 35804

AMENDED BENEFICIARY TO:
CITY OF HUNTSVILLE,
ALABAMA
308 FOUNTAIN CIRCLE
HUNTSVILLE, AL 35801

THIS AMENDMENT MUST BE ATTACHED TO AND BECOME AN INTEGRAL PART OF THE
ORIGINAL CREDIT. ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

SINCERELY,


(AUTHORIZED SIGNATURE)

OK MBE
7/27/09

OK EMB
7/30/09

OK KCA
7/31/09

OK
6/2/8
8/5/09

REGIONS®

Walton's Mt
III

1900 5TH AVENUE NORTH, 22ND FLR, BIRMINGHAM, ALABAMA 35203
S.W.I.F.T. UPNBUS44MIA TELEX 6737871 UPBMIA
PHONE (866)828-6928 FAX (205)264-6027

DATE: JULY 29, 2008

L/C NUMBER: L054094
AMENDMENT NUMBER: 04

BENEFICIARY:
CITY OF HUNTSVILLE,
ALABAMA
P.O. BOX 308
HUNTSVILLE, AL 35804

OPENER:
WM DEVELOPMENT LLC
4851 WHITESBURG DRIVE, SUITE G
HUNTSVILLE, AL 35801

WE HAVE AMENDED THE CAPTIONED LETTER OF CREDIT AT THE REQUEST OF THE
OPENER.

AMENDED TERMS AND CONDITIONS:

THIS AMENDMENT IS SUBJECT TO RECEIPT OF BENEFICIARY'S CONSENT. PLEASE
CONFIRM YOUR CONSENT TO US BY COMPLETING THE ENCLOSED BENEFICIARY'S
CONSENT TO THE AMENDMENT FORM BY MAIL.
AMOUNT DECREASED BY: USD \$3,993.65
NEW BALANCE: USD \$8,950.35

EXPIRATION DATE AMENDED TO: SEPTEMBER 18, 2009.

THIS AMENDMENT MUST BE ATTACHED TO AND BECOME AN INTEGRAL PART OF THE
ORIGINAL CREDIT. ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

SINCERELY,


(AUTHORIZED SIGNATURE)

ACCEPT THE TERMS AND CONDITIONS OF THE ABOVE-REFERENCED
AMENDMENT.

DO NOT ACCEPT THE TERMS AND CONDITIONS OF THE
ABOVE-REFERENCED AMENDMENT AND ARE HEREBY RETURNING THE
ORIGINAL AMENDMENT TO YOU.

CITY OF HUNTSVILLE,

OK MM 8/25/08

OK
CE/8 8/28/08

OK Imr 8/28/08

OK 8/28/08

REGIONS

BANK

417 North 20th Street, 5th fl., Birmingham, Alabama 35203

PHONE (866) 828-6928 FAX (205) 801-5788

S.W.I.F.T. UPNBUS44MIA TELEX 6737871 UPBMIA

DATE: JULY 16, 2007

L/C NUMBER: D054094

AMENDMENT NUMBER: 03

BENEFICIARY:
CITY OF HUNTSVILLE,
ALABAMA
P.O. BOX 308
HUNTSVILLE, AL 35804

OPENER:
WM DEVELOPMENT LLC
4851 WHITESBURG DR STE G
HUNTSVILLE, AL 35801

WE HAVE AMENDED THE CAPTIONED LETTER OF CREDIT AT THE REQUEST OF THE OPENER.

AMENDED TERMS AND CONDITIONS

THIS AMENDMENT IS SUBJECT TO RECEIPT OF BENEFICIARY'S CONSENT. PLEASE CONFIRM YOUR CONSENT TO US BY COMPLETING THE ENCLOSED BENEFICIARY'S CONSENT TO THE AMENDMENT FORM BY MAIL.
AMOUNT DECREASED BY: USD \$14,044.00
NEW BALANCE: USD \$12,944.00

EXPIRATION DATE AMENDED TO: SEPTEMBER 18, 2008

ALL DRAFT(S) DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT PRIOR TO THE EXPIRATION THEREOF WILL BE DULY HONORED IF DRAWN AND PRESENTED FOR PAYMENT TO REGIONS BANK, 200 W. CLINTON AVENUE, HUNTSVILLE, ALABAMA 35801.

THIS AMENDMENT MUST BE ATTACHED TO AND BECOME AN INTEGRAL PART OF THE ORIGINAL CREDIT. ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

SINCERELY,


(AUTHORIZED SIGNATURE)

ACCEPT THE TERMS AND CONDITIONS OF THE ABOVE REFERENCED AMENDMENT.
DO NOT ACCEPT THE TERMS AND CONDITIONS OF THE ABOVE REFERENCED AMENDMENT AND ARE HEREBY RETURNING THE ORIGINAL AMENDMENT TO YOU.

CITY OF HUNTSVILLE

Page 1 of 1

OK
CEN
7/20/07

MW 7.20.07

OK KCA
7/20/07

OK DLL 7/17/7

SW
GH

Walton's Mountain
III
w/ return letter

REGIONS BANK

International Division - Letter of Credit Department
9700 N.W. 32nd Avenue, Miami, Florida 33198
Tel: 206-448-2400
Fax: 206-448-2400
S.W.T.F. Address: 10000 S.W. 11th St., Miami, FL 33150
Tel: 206-448-2400

AMENDMENT TO IRREVOCABLE LETTER OF CREDIT

Date: July 17, 2005

Beneficiary:
City of Huntsville, Alabama
P.O. Box 308
Huntsville, AL 35804

Walters
Mtn III

Applicant:
W.M. Development, L.L.C.
4851 Whitesburg Drive, Suite C
Huntsville, AL 35801

Our Irrevocable Letter of Credit No. 1-1054094 Previous L/C Ref. 24943
Amendment No. 1: 002

The above-mentioned Letter of Credit is hereby amended as follows:

The expiration date has been extended to September 18, 2007.

The amount has been decreased by: US\$4,793.00

The new amount is now: US\$26,987.00

All other terms and conditions remain unchanged.

This amendment is an integral part of this Letter of Credit and must be attached hereto.

Kindly send us a written consent of your Agreement/Non-Agreement to the full consent to this amendment. (Sign a copy of this letter and return to us as an indication of your Consent to this amendment.)

Complete Beneficiary's Name

Beneficiary's authorized signature and date

All correspondence related to this letter of credit should be addressed to: Regions Bank,
216 West Side Square, Huntsville, AL 35801.

ORIGINAL

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

OK AED 7/26/06

OK VCA 7/26/06

OK DMB 7/26/05

REGIONS BANK

INTERNATIONAL DIVISION, STANDBY LETTER OF CREDIT DEPARTMENT
8700 NW 112 AVENUE MIAMI FLORIDA 33178 U.S.A. PHONE NO. (786) 845-4400 FAX NO. (786) 845-4782
SWIFT ADDRESS: URBNU34MIAMI TEL: 50737171 URBMI

Date: 08/05/2005

AMENDMENT TO IRREVOCABLE STANDBY LETTER OF CREDIT L054094
(Previous Ref. # 24943)
AMENDMENT # 001

Beneficiary:
CITY OF HUNTSVILLE, ALABAMA
P.O. BOX 308
HUNTSVILLE, AL 35804

ORIGINAL

Account Party:
W.M. DEVELOPMENT, L.L.C.
4851 WHITESBURG DRIVE, SUITE G
HUNTSVILLE, AL 35801

Ladies and Gentlemen:

The above referenced Letter of Credit has been amended as follows:

- THE EXPIRATION DATE EXTENDED TO SEPTEMBER 18, 2006

All other terms and conditions remain unchanged.

Please acknowledge receipt of this letter.

This amendment is an integral part of the above referenced Letter of Credit and must be attached thereto.

Regards,
Regions Bank
International Operations - L/C Department

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE



IRREVOCABLE STANDBY LETTER OF CREDIT NO. 24943

DATE: September 18, 2003

BENEFICIARY:

City of Huntsville, Alabama
P.O. Box 308
Huntsville, AL 35804

APPLICANT:

W. M. Development, L.L.C.
4851 Whitesburg Drive, Suite G
Huntsville, AL 35801

Re: Article 5 Sidewalks Letter of Credit for Walton's Mountain Phase 3 a Re-subdivision of Fleming Properties Second Addition a Re-subdivision of lots 4A and 4B of a Re-subdivision of lot 4 of Fleming Properties.

AMOUNT: \$31,780.00

(Thirty-one thousand seven hundred eighty and 00/100 U.S. Dollars)

EXPIRATION: September 18, 2005

We hereby establish our Irrevocable Standby Letter of Credit in your favor for the account of W. M. Development, L.L.C. in the amount of \$31,780.00 (Thirty-one thousand seven hundred eighty and 00/100 U.S. Dollars) for the above referenced subdivision available by your draft(s) drawn at Sight on Regions Bank, Birmingham, Alabama, payable to the order of the City of Huntsville and blank endorsed, accompanied by the following:

A statement signed by an official of the City of Huntsville, Alabama reading:

"We hereby certify that the draft is drawn pursuant to Article 5 of the Subdivision Regulations of the City of Huntsville, Alabama."

Each draft must bear the clause: "Drawn under Regions Bank, Birmingham, Alabama, Letter of Credit No. 24943, dated September 18, 2003."

The original of this Letter of Credit and any amendments thereto must be presented with any drawing. All drawings must be presented to Regions Bank, International Division, 417 North 20th Street, Birmingham, Alabama 35203. Presentment of this Letter of Credit may be made by courier mail, certified mail, registered mail, or any other means you deem necessary.

This Letter of Credit will expire at Regions Bank, International Division, 417 North 20th Street, Birmingham, Alabama 35203.

We hereby engage with you that drafts drawn under and in compliance with the terms of the credit will be duly honored upon presentation and delivery of the documents as specified.

This Letter of Credit shall be governed by the laws of the State of Alabama, including but not limited to the Alabama Uniform Commercial Code, as the same may be from time to time amended.

Regions Bank, Birmingham, Alabama


Kathy Sarsing
International Banking Officer

OK 9-22-03

OK 9/22/03

KCA 9/22/03

a:24943/njc

OK

OK

9/22/03